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In re Application of	:	DECISION ON
Hoppenstein et al	:	
Application No.: 10/572,411	:	
International App. No.: PCT/US2005/040349	:	
Int. Filing Date: 08 November 2005	:	REQUEST UNDER
Priority Date: 16 March 2005	:	
Attorney's Docket No.: H7885.00.18	:	
For: IMPROVED VEHICLE CHASSIS	:	37 CFR 1.497(d)

This is a decision on applicants' "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE AND PETITION UNDER 37 CFR 1.497(d) TO CORRECT INVENTORSHIP" filed on 04 October 2007, naming additional inventor, Reuben Hoppenstein, in the executed declaration. The \$130.00 processing fee has been charged to Deposit Account No. 50-2499.

BACKGROUND

On 08 November 2005, applicants filed international application No. PCT/US2005/04039 and claiming a priority date of 16 March 2005.

On 16 March 2006, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee. No executed oath or declaration was filed at such time.

On 16 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by International application number and international filing date in that the declaration not signed by inventor (Day, Robin). The notice also indicated that the items set forth above must be submitted within two (2) months from date of this Notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 04 October 2007, applicants filed a an executed declaration which included an additional inventor, and a request for correction of inventorship under 1.497(d) to add Rueben Hoppenstein to the declaration.

DISCUSSION

A submission under 37 CFR 1.497(d) must include:

- (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
- (2) the fee set forth in § 1.17(I); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

A review of the application file reveals that applicants have satisfied items (1) - (2) under 37 CFR 1.497(d) but not requirement (3).

With respect to item (1), the statement submitted 04 October 2007 by Rueben Hoppenstein is sufficient because the statement states that the error in inventorship occurred without a deceptive intent.

With respect to item (2), the processing fee of \$130.00 has been charged to the Deposit Account.

With respect to item (3), applicants did not submit the latest copy of the executed assignment to the assignee in the file, which was recorded on 04/06/2006 instead applicants submitted the assignment filed on 03/30/2006, which appears to improper. To establish the right of the Assignee to take action, applicants must submit a copy of the executed assignment or specify the reel and frame number. Note MPEP 324 and 37 CFR 3.73(b).

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. The proper reply is either a proper request under 37 CFR 1.497(d) overcoming the above stated defects. The failure to provide the proper reply will result in Abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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